

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONNA JOHNSON and TOM
JOHNSON,

Plaintiffs,

V.

KDI OMAHA, LP and EATON
HYDRAULICS, INC.,

Defendants.

8:05CV145

MEMORANDUM AND ORDER

This matter is before the court upon Plaintiffs’ motion for a temporary restraining order (“TRO”). The motion was filed on April 1, 2005, and was not accompanied by a supporting brief as required by NECivR 7.1(a)(1). By April 13, 2005 order (filing 13), Plaintiffs’ counsel was advised to contact my judicial assistant after service had been obtained upon defendant Eaton Hydraulics to schedule a conference call for the purpose of progressing the TRO motion. There has been no contact between Plaintiffs’ counsel and my chambers regarding the motion for TRO.

If the moving party fails to submit a brief in support of a motion raising a substantial issue of law, that party is “deemed to have abandoned . . . that party’s position on the pending motion.” NECivR 7.1. Although it may not always be possible to submit a brief supporting a motion for a TRO simultaneously with the motion, here the TRO motion has been pending for more than one month and the moving party has failed to submit a brief in support of the motion. In addition, Plaintiff’s counsel has not contacted my chambers regarding progression of the motion for TRO.

For the foregoing reasons, I find that Plaintiffs have abandoned the motion for TRO and will deny it. Defendant KDI Omaha, LP (“KDI”) previously filed a motion

for an extension of the deadline for responding to the motion for TRO (filing 10, filed April 8, 2005.) I will deny that motion as moot.

IT IS ORDERED:

1. The motion for TRO (filing 4) is denied; and
2. Defendant KDI's motion for extension of time for responding to the motion for TRO (filing 10) is denied as moot.

May 6, 2005.

BY THE COURT:

s/Richard G. Kopf
United States District Judge